(1) (3)

CFOR

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 2693/2003

PETITIONER : Gulam Rasul Age 52 years,
S/o Shri Mohd. R/o Bidpara, Raigarh
Tahsil & Distt. Raigarh (C.G.)

VERSUS

RESPONDENT : Noharlal Patel Age 42 years
S/o Shri Karuna Sagar Patel
R/o Village Regada,
Tahsil & Distt. Raigarh (C.G.)

P. R. No. 9596/03
Presented by Shri K.V. Reesha Kesharwani
dated 22/08/03

WRIT PETITION UNDER ARTICLES ~~226~~/227 OF THE CONSTITUTION OF INDIA

(22)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. No. 2693/03

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	3.9.2003 Petitioner by Shri G. K. Beriwal, Advocate. Heard. By this petition under Article 227 of the Constitution of India the petitioner has challenged the order dated 25.4.2003 passed by the Second Additional District Judge in Civil Suit No. 10-A/2002 rejecting the petitioner's objection about the admissibility of the document dated 19.10.1999. The petitioner's petition is that the respondent (herein) filed a civil suit in the Court of Second Additional Sessions Judge, Raigarh on a agreement/document dated 19.10.1999 which is executed on a non-judicial stamp worth Rs.50/-. A reading of the said document reveals that Rs. 80,000/- were advanced to the petitioner for transfer of agriculture land bearing Khasra No. 238/2, area 0.890 hectare. The document further mention that as and when his financial condition will improve he will repay the loan on or before 28.10.2001 failing which the petitioner will cut his banana crop and deliver the possession of the land by 29.7.2000. The petitioner raised objection in the written statement that the said document is neither a pronote nor agreement and it is a bond which is to be stamped according to the stamp Act. It was also objected that the document was signed by three witnesses hence it cannot be deemed as pronote. Learned Additional District Judge by the impugned order has held that it is not a bond. It is therefore prayed that the impugned order may be quashed. I have heard learned counsel for the petitioner.	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक 2693/07 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the petitioner submits that the document in question shows that it is a bond because in this document conditions are mentioned. More over it has been signed by the witnesses, however learned Additional District Judge contrary to the legal provisions held that the document in question is not a bond therefore the objection of the petitioner was justified.

Having heard learned counsel for the petitioner I am of the opinion that under Article 227 of the Constitution of India supervisory jurisdiction vests in this Court and these powers can be exercised only when subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it has or the jurisdiction though available is being exercised in a manner not permitted by law and failure of justice or grave injustice has resulted. The supervisory jurisdiction extends to keeping the subordinate Court within the limits of their authority and to see that they obey the law. The powers under Article 227 of the Constitution is a discretionary power and it is difficult to attribute to an order of the High Court, such a source of power, when the High Court itself does not in terms purport to exercise any such discretionary power. It is settled law that this power of judicial superintendence must be exercised sparingly and only to keep subordinate courts within the bounds of their authority and not to correct mere errors. Further where the statute bans the exercise of revisional powers it would require very exceptional circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory

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आदेश पत्रक

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

law. Further the jurisdiction under Article 227 could not be exercised "as the cloak of an appeal in disguise".

Therefore, in view of the above, I am of the opinion that it is not a fit case in which the interference of this Court under Article 227 of the Constitution of India is required. However, if the petitioner feels aggrieved and he has already raised objection he will be at liberty to raise the objection before the appellate Court if occasion so arises.

Sd/-
L.C.BHADOO
Judge